



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box
TRENTON, NJ 08625-0

MATTHEW J. PLATKIN
Acting Attorney General

MICHAEL T.G. LONG
Director

June 7, 2022

Via Electronic Filing

Hon. Cathy L. Waldor, U.S.M.J.
United States District Court, District of New Jersey
Martin Luther King Bldg. & U.S. Courthouse
50 Walnut Street, Rm. 4015
Newark, NJ 07101

Re: Elizabeth McNair, Administrator Ad Prosequendum of the Estate of Darrell Smith, and Elizabeth McNair, individually v. State of New Jersey, et al
Civil Action No. 2:21-cv-01291 (WJM)(CLW)

Dear Judge Waldor,

This office represents Defendants State of New Jersey, New Jersey Department of Corrections (DOC), New Jersey Department of Health, Special Treatment Unit, Adult Diagnostic Treatment Center, former DOC Commissioner Marcus Hicks (in his individual capacity), DOC Acting Commissioner Victoria Kuhn (official capacity only), and Raymond Royce (collectively, “State Entity Defendants”) in the above-captioned matter.

This case involves allegations by the Estate of Darrell Smith and Smith’s sister, Elizabeth McNair, individually, of various constitutional violations and tort claims against the State Entity Defendants, numerous individual Co-Defendants, and numerous medical Co-Defendants, all stemming from the events surrounding the death of Darrell Smith. *See ECF No. 100.* After a status conference before Your Honor on March 15, 2022, an Order was entered directing written discovery and document requests to be served by April 29, 2022 and responses served by June 30, 2022. *ECF No. 148.* The State Entity Defendants have been served with Plaintiffs’ discovery requests as of Sunday, June 5, 2022.

On behalf of the State Entity Defendants, we write to advise the Court that the facts underlying this matter are currently under active criminal investigation by the State of New Jersey’s Office of Public Integrity and Accountability (OPIA). Pursuant to N.J.S.A. 52:17B-107(a)(2), the Attorney General is statutorily required to present the matter to the Grand Jury at the conclusion of the OPIA investigation. As the State Entity Defendants cannot release any documents that could jeopardize an impartial presentation to the Grand Jury nor can DOC conduct



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its own internal investigation while the OPIA investigation is ongoing, we respectfully request a stay of discovery.

This request is made via letter in accordance with the requirement for the Court's permission prior to submitting motion filings, as listed within the sample Pre-Trial Scheduling Order in Your Honor's judicial preferences. Should a formal motion be necessary or preferred, our office can certainly file a motion requesting the relief sought herein.

Respectfully submitted,

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Victor DiFrancesco
Victor DiFrancesco
Deputy Attorney General

/s/ Stephanie Trotter
Stephanie Trotter
Deputy Attorney General

cc: Via e-filing
All Counsel of Record